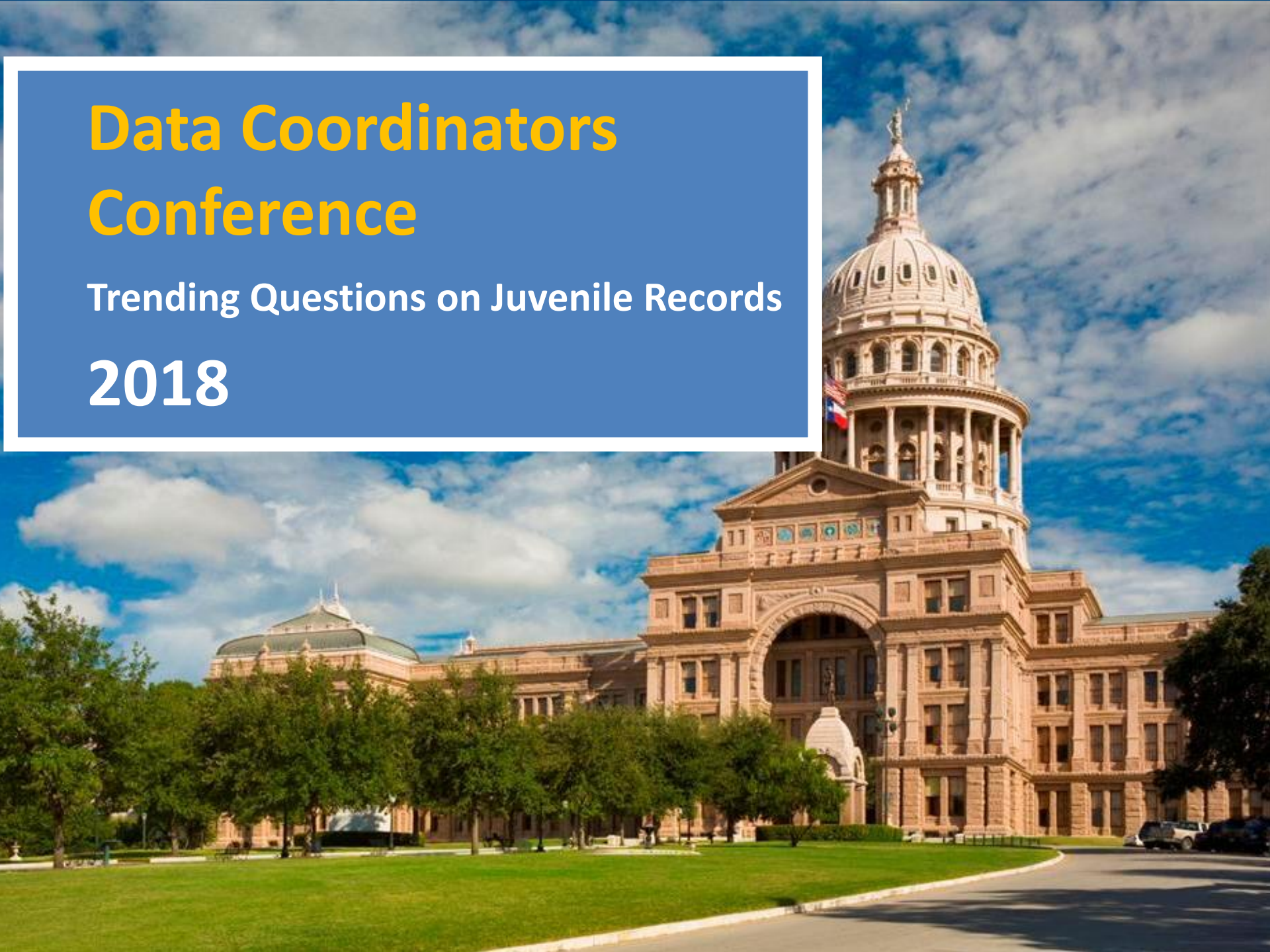


Data Coordinators Conference

Trending Questions on Juvenile Records

2018



Objective

- To provide an overview of **trending questions** affecting juvenile sealing laws in Texas.



SB 1304

Relating to confidentiality, sharing, sealing and destruction of juvenile records.

- Contains revisions to Chapter 58, Family Code proposed by the Juvenile Records Advisory Committee.
- Limits access to DPS' JJIS to criminal justice agencies, military, certain federal entities, TJJD, OIO and DFPS.
- REPEALS restricted access.
- Authorizes sealing with or without an application using simpler eligibility criteria.
- Maintains DPS and TJJD data for recidivism studies.



SB 1304

Effective Date

September 1, 2017

Applicability

- Records created **before, on, or after** the effective date





Basic Steps



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STEP ONE

DPS & TJJD Notifications



- **DPS** conducts a daily search of age and offense history in (DC) JJIS – including adult history; [58.254, FC]
- DPS uploads info to a “Worklist” of eligible juveniles;
- **TJJD** sends notifications on juveniles with **CINS Only** records that have been matched by DPS.

STEP TWO

Local Review



2

- **JPDs** will retrieve notifications using ORI Number and conduct a local review, as needed;
- If not eligible, notify DPS w/in 15 days (i.e., **CLICK “Not Qualified”**);
- Identify agencies and other holders of records;
- Send notice and list of referrals and outcomes to court.

3

STEP THREE

Initiate Sealing Process

- Without Application
(i.e., Scheduled)
- With Application
(file application to petition court)
- Court may not impose fees

Texas Family Code

§58.253	Sealing Without Application – Delinquent Conduct
§58.255	Sealing Without Application – CINS
§58.256	Application for Sealing Records

STEP FOUR

4

Options for Hearing

- Court may order sealing without a hearing;
- Court may not deny an application without a hearing;
- Hearing must be held no later than 60th day after application.

Texas Family Code

§58.257

Hearing Regarding Sealing of Juvenile Record

STEP FIVE

Upon Entry of Sealing Order



5

- Sealing Order is issued within 60 days
- Entities must take actions required in statute.

Texas Family Code

§58.259

Actions Taken on Receipt of Order to Seal Records



Case Reporting



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Question

- *Does DPS use the last official action or disposition date to determine eligibility?*



Answer

- **Case closure and discharge** must be reported per 58.104, FC.
- DPS searches are based on the reported **date of final discharge or last official action**.



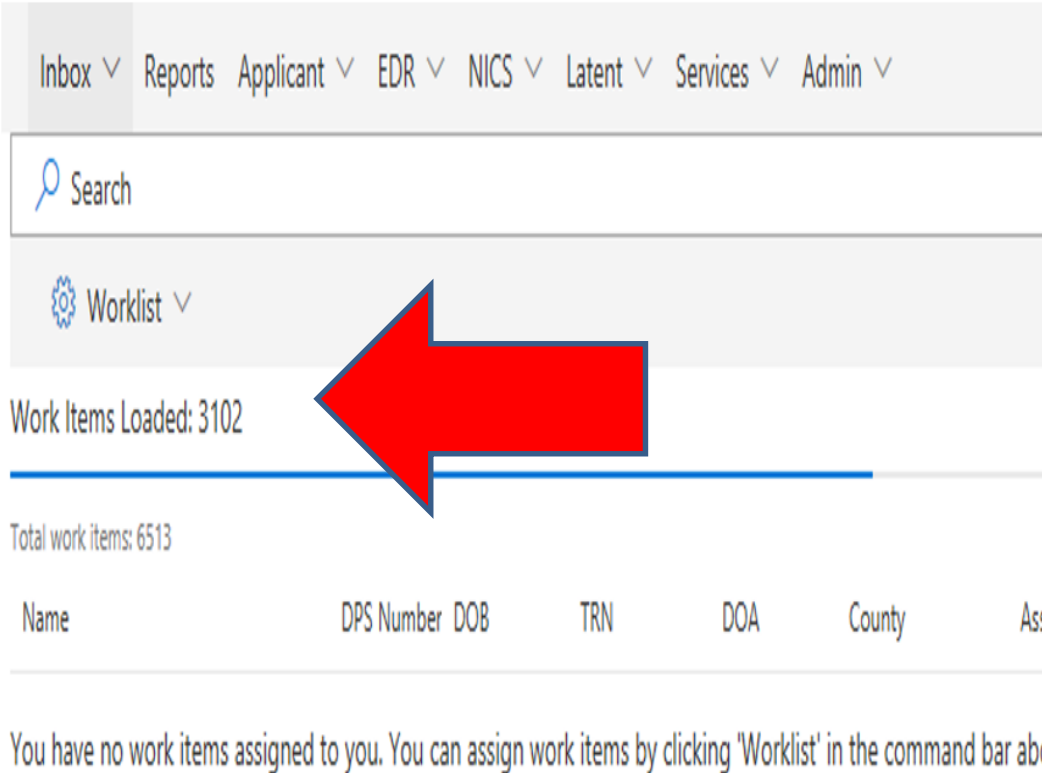


The Worklists



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DPS Juvenile Sealing Worklist



The screenshot shows the top navigation bar with links: Inbox ▾, Reports, Applicant ▾, EDR ▾, NICS ▾, Latent ▾, Services ▾, and Admin ▾. Below this is a search bar with a magnifying glass icon and the text 'Search'. Underneath the search bar is a 'Worklist ▾' button with a gear icon. A large red arrow points to this 'Worklist' button. Below the button, it says 'Work Items Loaded: 3102'. Further down, it says 'Total work items: 6513'. At the bottom, there is a table header with columns: Name, DPS Number, DOB, TRN, DOA, County, and Ass. Below the header, a message states: 'You have no work items assigned to you. You can assign work items by clicking "Worklist" in the command bar above.'

OPEN PAGE

- Posted on CJIS/EDR Tab
- Contains all qualified records
- Search by Name, DPS#, DOB, TRN, County Assigned and Status

DPS Juvenile Sealing Worklist

? Worklist

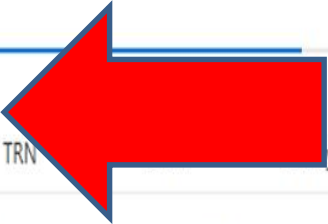
Worklist Help

Worklist Descriptions

- My Reviewing Qualification
Displays workitems owned by you with a status of Reviewing Qualification
- My Qualified
Displays workitems owned by you with a status of Qualified
- My Not Qualified
Displays workitems owned by you with a status of Not Qualified
- All Reviewing Qualification
Displays all workitems with a status of Reviewing Qualification
- All Qualified
Displays all workitems with a status of Qualified
- All Not Qualified
Displays all workitems with a status of Not Qualified
- Pending Review
Displays workitems that are Pending Review (not assigned to anyone). More items are loaded as you scroll.

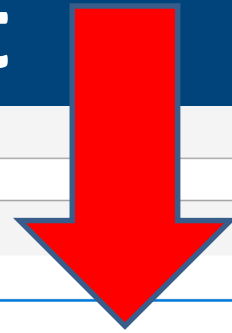
TRN Assigned Status

Work items by clicking 'Worklist' in the command bar above and selecting 'Pending Review'.



HELP MENU
**Explains Ch. 58 Impact, Search
Help, Worklist Help**

DPS Juvenile Sealing Worklist



Inbox ▾ Reports Applicant ▾ EDR ▾ NICS ▾ Latent ▾ Services ▾ Admin ▾

Search

Worklist ▾

Work Items Loaded: 9880

Total work items: 6513

Name	DPS Number	DOB	TRN	DOA	County	Assigned	Status
HARRIS, JASON MARC	0511115	1990-07-03	003111109	1996-03-20	TRAVIS		PENDING REVIEW
LINCOLN, WALTER	05111189	1989-08-04	003111124	1996-03-20	TRAVIS		PENDING REVIEW
GILBERT, CHARLES	05111133	1990-03-13	003111190	1996-03-20	TRAVIS		PENDING REVIEW
MARTIN, JOHN	0511119	1990-10-09	003111197	1996-03-20	TRAVIS		PENDING REVIEW
SMITH, REBECCA JANE	05111154	1989-01-14	00311113X	1996-03-20	TRAVIS		PENDING REVIEW
ELDER, RAYMOND	05111106	1990-03-13	003111185	1996-03-20	TRAVIS		PENDING REVIEW
DUNN, NOLAN JAMES	05111163	1991-04-28	003111110	1996-03-20	TRAVIS		PENDING REVIEW
OWEN, DEWARD LEONARD JR	05111152	1991-03-18	003111183	1996-03-20	TRAVIS		PENDING REVIEW
WILSON, ALLEN	05111173	1990-08-12	003111150	1996-06-06	TRAVIS		PENDING REVIEW
ROBERTS, MEOSHE WYKIA	05111121	1990-07-01	003111158	1996-12-14	TRAVIS		PENDING REVIEW
WILSON, JOE	05111156	1990-07-13	003111158	1996-03-28	NUECES		PENDING REVIEW
GILBERT, JOSHUA	05111100	1997-02-05	003111123	1997-06-11	NUECES		PENDING REVIEW
SMITH, MARQUITA MICHELLE	05111126	1990-08-19	0031111520	1997-01-30	TRAVIS		PENDING REVIEW
BROWN, MELISSA	05111157	1991-01-27	003111144	1997-02-19	NUECES		PENDING REVIEW
WILSON, RICHARD	05111117	1990-06-28	003111147	1996-10-07	TRAVIS		PENDING REVIEW

STATUS ITEMS

- PENDING REVIEW
- REVIEWING QUALIFICATIONS
- QUALIFIED

You have no work items assigned to you. You can assign work items by clicking 'Worklist' in the command bar above and selecting 'Pending Review'.

Question

- *Why does the Juvenile Worklist contain older records that date back to 1996?*



Answer

- The law applies **retroactively** to all juvenile records regardless of when they were created.
- The initial upload to the JJS Worklist included all system records created on or after 1/1/1996.



Question

Is there a requirement to do a local check after DPS has certified a child as eligible on the Worklist?



Answer

- **Generally, NO.** The names included on the DPS Worklist indicate that the records are eligible.
- If a probation department is **aware of subsequent history or other error**, flag the worklist record as “not qualified” and take steps to resolve.
- **Spot checks** and other local research steps may be necessary.

Issues During Review

Resolving Eligibility Issues

§58.254, FC – Sealing Without Application

Appears INELIGIBLE

- JPD contacts DPS within **15 days** of receiving notice;
- If determine not eligible, JJIS updated; no further action taken.
- ***If ELIGIBLE***, JPD has **30 days** from date of determination to give the court the info on referrals and outcomes;
- Court shall seal within **60 days**.

Not Qualified

This will assign the work item to you. This means you have determined that this record doesn't qualify for sealing. This will set the status to Not Qualified.



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Question

Do the records disappear from the Worklist after they've been qualified or not qualified?



Answer

- **No.** They are still on the list, but can be **filtered to not show** using selections from the dropdown list:
 - (My Pending, My Qualified, My Not Qualified, etc.).
- The record will be sealed and **removed from CCH** and from the worklist **after** DPS has received and processed the **sealing order**.
-

Question

What if a record is not from my county and should not be on my Worklist?



Answer

- If the record has not been assigned to a specific individual, the ORI number can be corrected in the CCH.
- After the correction is entered, the county info will be updated after the worklist program runs again.

TJJD CINS-Only Report

Initiating the Process

TJJD Comprehensive CINS Report (As of 11/15/17)

- Sent Worklist of CINS – Only Referrals
- Comparative MATCH of JCMS monthly extract and DPS – CJIS;

- There is a built-in **DELAY** until the PID has been sealed and TJJD receives the EDI extract the following month.

Subsequent Reports

- Contain CINS-Only referrals that turned 18 since the last report.
- Will not be compared to DPS after initial list.

TJJD CINS REPORT

	A	B	C
1	PIDNumber	Date Of Birth	Agency
2	2400021801	08/06/2000	Webb
3	2400022079	08/11/2000	Webb
4	2400022578	07/17/2000	Webb
5	2400022657	07/20/2000	Webb
6	2400022819	07/28/2000	Webb
7	2400023269	08/09/2000	Webb
8	2400023340	07/20/2000	Webb
9	2400023481	07/16/2000	Webb
10	2400023792	07/21/2000	Webb
11	2400023902	07/19/2000	Webb
12	2400024211	08/09/2000	Webb
13	2400024285	07/18/2000	Webb
14	2400024297	07/20/2000	Webb
15	2400024803	08/09/2000	Webb
16			

CINS Worklist

- One time “master list” searched active and inactive database...sent out 1/29/18.
- Monthly reports search the active database only
- PID, DOB, County



Qualifying History



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Exempted Records

Sealing and Destruction

§58.252, FC

The following records are not subject to Subchapter C-1:

- DPS or local law enforcement:
 - Gang Database
 - Sex Offender Registry
- Records maintained by TJJD for statistical and research purposes



Eligibility

Sealing Without Application


AGE

- 19

DELINQUENT CONDUCT

- Misdemeanor or Felony Referrals -- No Adjudication
- Misdemeanor -- Adjudication

Disqualifying Offense Criteria

- No Felony Adjudications
-  No pending charges (adult/juvenile)
- Never Certified as Adult
- No Adult Convictions (jailable misdemeanor or felony)

§58.253, FC

CINS Eligibility

Sealing Without Application

§58.255, FC

Only CINS Referral History

- Entitled to have all records sealed if:
 - At least 18
 - No delinquent conduct referrals
 - No adult felony conviction or pending adult charges (any level)
- JPD identifies and gives court notice
- Court shall order sealing within 60 days



Eligibility

Sealing With Application

AGE

- **18**; or
- **If under 18--**
 - 2 years since final discharge

Applies to Entire Record

Eligibility relates to every matter referred.

OFFENSE CRITERIA

- No Pending Delinquent Conduct
- Never Certified as an Adult
- No Adult Felony Convictions
- No Pending Adult Charges (Felony or Jailable Misdemeanor)

§58.256 (c) – (e), FC

Ineligibility

Sealing With Application

INELIGIBLE HISTORY – Order Prohibited

- Determinate Sentence/Habitual Felony Adjudication
- SXO Registration – Active Duty
- Committed to TJJD
- Committed to Travis Co. PAdj. Facility

§58.256 (d)(1-3) FC



Question

- *If a juvenile was adjudicated for a felony, is he or she ever eligible for sealing without application?*



Answer

- **No.** A juvenile who has been adjudicated for a felony is not eligible for sealing without application.
- The person with history of a felony **MUST APPLY** for sealing, if otherwise eligible.

Question

- *If a juvenile was certified as an adult or adjudicated for a determinate sentence, is he or she eligible for sealing?*



Answer

- **No.** A juvenile who has been certified or adjudicated for a determinate sentence offense is **not eligible** for sealing.

Question

- *Are registered sex offenders included on the DPS Worklist?*

Registration



Answer

- **No.** Section 58.256 prohibits sealing R-SXO until the 10-year duty to register expires.
- DPS **matches** the Sex Offender Registry with information contained in the JJIS database.
- When the person's duty has expired, he or she must **APPLY** to have his or her records sealed.

Question

Do I need to email DPS each time the JPD records show there is disqualifying history?

Not Qualified

This will assign the work item to you. This means you have determined that this record doesn't qualify for sealing. This will set the status to Not Qualified.

Answer

- **No.** Clicking on the '**Not Qualified**' button in the worklist serves as notification to DPS under §58.254(d), FC.
- Only cases that were determined to qualify based on the DPS CCH have been added to agency's worklists.
- If a case is **NOT QUALIFIED**, additional JPD research is required.
- Any **MISSING** or **INACCURATE** info should be sent to **DPS Field Support Office** to ensure the CCH is accurate and complete.

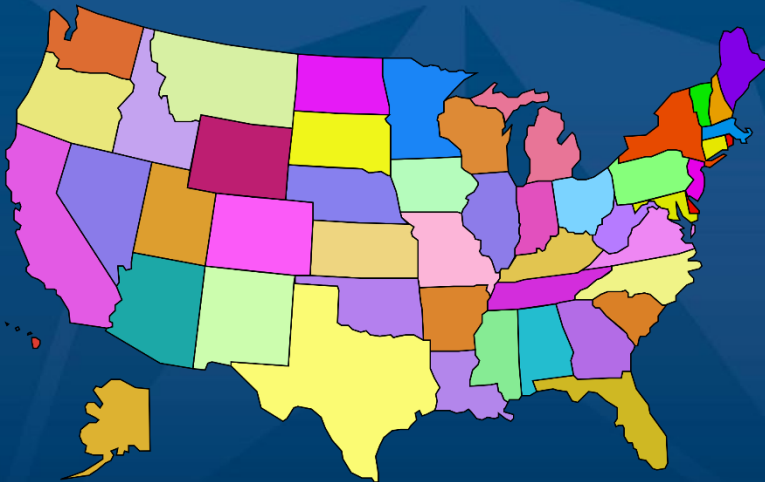


Question

Is there a requirement to check records from other states to determine eligibility?

Answer

- **No.** The eligibility criteria are based on Texas records.



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Sealing



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Sealing With Application

Initiating the Process

§58.256, FC

- **Application** is submitted to the juvenile court to have records sealed in all matters relating to the person.
- **The application should:**
 - Contain info required in statute; and
 - Allege the person meets the eligibility criteria.
- **Filed by:**
 - Subject of juvenile records; or
 - Attorney on behalf of subject.
- **Fees**
 - Filing fees are prohibited.



Question

When can a juvenile apply for sealing? Is an attorney required? Is there a filing fee?



Answer

- A juvenile may apply for sealing at age 18.
- A juvenile may apply for sealing before age 18 if at least two years have passed since the final discharge.
- An attorney is not required for an application for sealing.
- Courts and clerks may not charge a fee for filing an application.

Question

Where did the special sealing provisions for drug court and CINS prostitution go?



Answer

- The “special sealing” provisions were **REPEALED**.
- Drug court, CINS prostitution, CINS sexting and human trafficking records cases must be sealed using “with or without” application methods.

Question

What if there is no cause number because the case was handled non-judicially/informally?



Answer

- Many cases handled non-judicially (i.e. informal cases) may not have a cause number, but should be sealed.
- A new cause number associated with the sealing order is recommended.

Question

Which county should seal when a juvenile has been supervised on ICT?

Answer

- A county that receives a DPS notification and enters the sealing order should include the ICT county on the list of entities that must comply with the order.



Question

What if a record is not sealed and it should have been?



Answer

- Information in the JJIS is only available to criminal justice agencies for criminal justice purposes and specific entities.

Question

Does the FBI seal Texas juvenile records?



Answer

- When a juvenile record is ordered sealed at the state level (i.e., JJIS), the corresponding **federal FBI/NCIC** is **flagged** as sealed.



Orders



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Question

Where can we get a sample APPLICATION and ORDER to seal?



Answer

- Other counties have developed a **Sample Application** form that we have shared.
- The Juvenile Law Section website has sample **Sealing Orders** and related forms.
- All forms should be reviewed by local counsel.

Order Sealing Records

Procedural Aspects

§58.258, FC

- All adjudications vacated
- Proceedings dismissed and treated for all purposes as if they never occurred;
- Clerk seals court records, including those in the clerk's case management system;
- Clerk sends copy of Order to all entities listed in the order – within 60 days;





Actions Upon Sealing



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Question

Should sealed records be sent to the clerk of the court?



Answer

- Under the new law, sealed records must be stored in a manner accessible only to the custodian of records.
- **Some entities** are required to send records to the court.
- **Written verification** must be sent to the court clerk within 60 days.

Question

We received a sealing order on a certain TRN but the juvenile has other offenses?



Answer

- Eligibility relates to the juvenile's entire record, not specific TRN offenses.
- Every offense in the juvenile's folder must meet the sealing criteria.

Question

Is it okay to include all offenses relating to a juvenile in one motion and order?



Answer

- **Yes.** The judge is ordering the juvenile's **entire case history** sealed.
- It is more efficient. This is a local drafting preference.

Question

What does “seal in place” mean?



Answer

- It means that paper and electronic records should be sealed in a manner that is **accessible only by the custodian of records.**
- Records are no longer sent to the clerk of court.
- Follow the instructions for sealing case management system records (i.e., JCMS, Techshare, etc.)

Question

Do I still need to inform agencies that the records are sealed?



Answer

- **Yes.** Even though the process occurs “automatically” agencies and entities known to have records must receive a sealing order, including DPS.
- Records in JJIS cannot be flagged as sealed unless DPS receives a sealing order.

Question

How do we know if an entity has complied with our court order?



Answer

- Each entity that receives a sealing order must **provide written verification**. Sec. 58.259, FC
- Verification must be **returned to the issuing court.**

Question

Who can access a record after it is sealed?



Answer

- Subject of order can ask court to unseal for any reason
- Prosecutor can ask court to unseal to review for possible use in:
 - Capital prosecution or
 - For enhancement under Section 12.42, Penal Code
- Court, TDCJ, TJJD can request for sex offender screening purposes

Question

Should sealed records be sent to the clerk of the court?



Answer

- Sealed physical and electronic records must be stored in a manner accessible only to the custodian of records.
§58.259(b), FC
- **Written verification** must be sent to the court within 60 days.

TIMELINES

AFTER DPS CERTIFICATION

15 Days	Notify DPS of <i>Ineligible</i> History
30 Days	If no issue, Send <i>Eligible</i> List to Court
60 Days	Court Issues Sealing Order (Auto)

AFTER RECEIPT OF APPLICATION

60 Days	Court Holds Hearing
---------	---------------------

AFTER ENTRY OF ORDER

60 Days	Court Sends Sealing Order to Entities
60 Days	Entities Seal, Send Written Verification, Other Steps in Statute
30 Days	Notify Court, Can't Comply



Case Mgt. Systems



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Case Management Systems

Sealing and Destruction

After a sealing order has been issued or destruction is authorized...

- Do **NOT DELETE** CSMgt records;
- Follow JCMS instructions to flag records as sealed;
- Use the **same** process for destruction;
- Records are no longer accessible to users, but only to DPS and TJJD for statistical purposes.



Sealing and Local Data

Data Exempt from Sealing

- DPS and TJJD Statistical Data, §58.252, FC
- Repositories (JJIS, §58.108, FC and LJIS/JCMS §58.303, FC)

Sealed Data

- Not destroyed
- Stored in a manner that allows access only to custodian of records for the entity possessing the records. §58.259(b), FC

– Applies to Post-Sealing Maintenance

- Case Management System
- Computer Index
- Integrated LJIS §58.307(d), FC

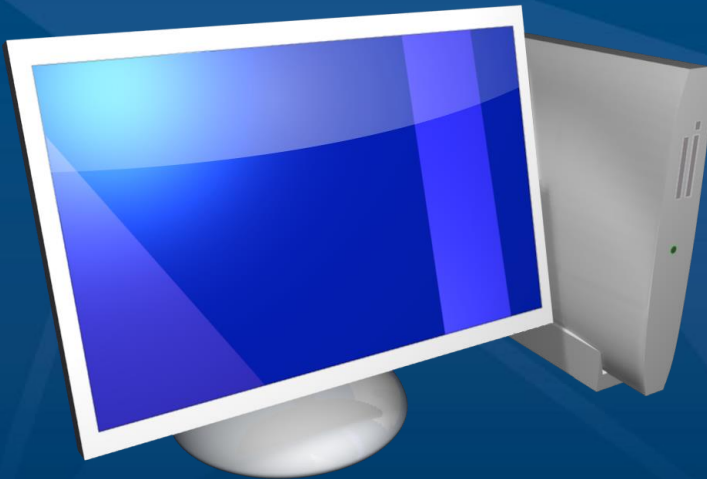


Question

Is a court order required to seal records in the case management system?

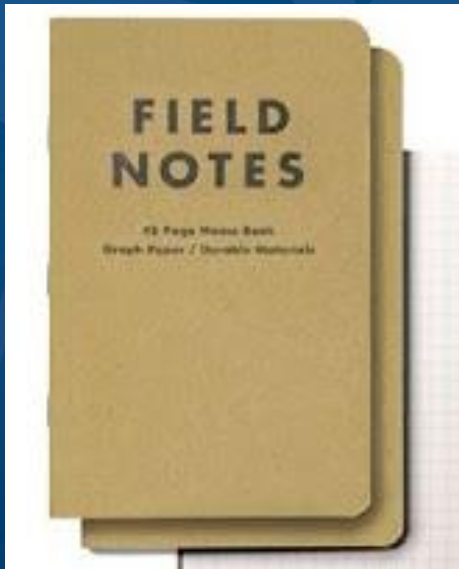
Answer

- Yes, a juvenile court order is required to seal any electronic or paper record, regardless of the medium



Question

Can we save any notes we make during the sealing process on the juvenile's record in JCMS?



Answer

- Once a record is sealed, the attachments cannot be accessed. The notes would be permanently lost.



Destruction



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Question

After a sealing order has been issued, can we immediately destroy the CINS records?



Answer

- As an alternative to sealing in place --
 - Permissible destruction of closed and sealed CINS matters must be authorized by resolution and action of the juvenile board. **Sec. 58.264, FC**



Resources



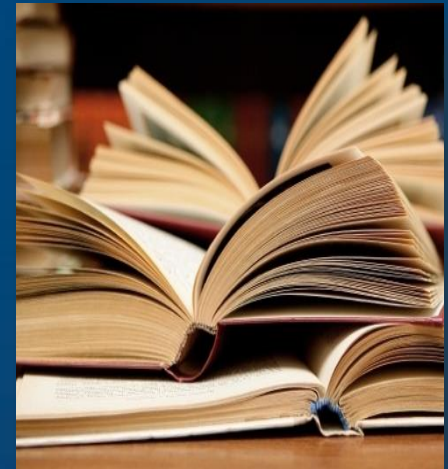
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SB 1304

Statewide Implementation & Consistency Goals

Informational Materials-- SB 1304

- Implementation Recommendations (*TJJD Website*)
- **Online** - Juvenile Records in Texas
- **Online** - Juvenile Records One-Pager and Statute
- **Online** – Sample Forms (*JLS Website*)
- Ongoing Training



TJJD Law Summary

JUVENILE RECORDS IN TEXAS

www.tjtd.texas.gov

CONFIDENTIALITY

A record is defined any documentation related to a juvenile matter, including the information contained in that documentation.¹

Records concerning a child are confidential and may not be shared unless authorized by law.

COURT, PROBATION DEPARTMENT & PROSECUTING ATTORNEY RECORDS

The records of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child are open to inspection or copying only by:

1. the judge, probation officers, and professional staff or consultants of the juvenile court;
2. a juvenile justice agency with custody or control over juvenile offenders;
3. an attorney representing a party in a Title 3 proceeding;²
4. a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information if there is a written confidentiality agreement;
5. a public or private agency or institution providing supervision of the child by arrangement of the juvenile court or having custody of the child under juvenile court order; or
6. with permission of the juvenile court, anyone with a legitimate interest in the proceeding or work of the court.³

The juvenile probation department (but not the other entities) may release information contained in its records without leave of the court pursuant to guidelines adopted by the juvenile board.⁴

Quick Reference Chart

Sealing and Destruction of Juvenile Records Summary of 2017 Legislative Changes

SEALING WITH APPLICATION	SEALING WITHOUT APPLICATION	DESTRUCTION	PERMISSIBLE DESTRUCTION
The court-ordered sealing of juvenile records for protection and safekeeping. Sealed records may only be inspected or released under certain circumstances. [§58.256, FC]	The scheduled court-ordered sealing of juvenile records based on age and eligibility criteria for protection and safekeeping. [§58.253 and 58.255 FC]	The permanent destruction of records pertaining to a juvenile matter as ordered by the juvenile court. [§58.263, FC]	The permanent destruction of records authorized by the head of an entity to facilitate efficient record storage and maintenance (i.e., "spring cleaning". [§58.264].
ELIGIBILITY			
<p>All Matters</p> <p>Age 18; or Under 18 and 2 Yrs After Final Discharge Must meet statutory requirements. [§58.256(c) (1-5), FC]</p> <ul style="list-style-type: none"> No Pending Delinquent Conduct Never Certified as an Adult No Adult Felony Convictions No Pending Adult Charges (Felony or Jailable Misdemeanor) <p>Entire Record Eligibility relates to each referral in the juvenile's entire record. [§58.256(c) and §58.258(a)(2), FC]</p> <p>Exceptions See <i>Ineligible History Below</i></p> <p>Special Sealing Provisions The provisions that allowed the court to seal records upon completion of a drug court, CINS prostitution, sexting and victims of human trafficking program</p>	<p>Delinquent Conduct</p> <p>Age 19 Misdemeanor Adjudications and No Adjudication Felony No Adjudication Must meet statutory requirements. [§58.253(b)(1-6), FC]</p> <ul style="list-style-type: none"> No Felony Adjudications No Pending Delinquent Conduct Never Certified as an Adult No Adult Convictions (Felony or Jailable Misdemeanor) No Pending Adult Charges (Felony or Jailable Misdemeanor) <p>CINS</p> <p>Age 18 Must meet statutory requirements. [§58.255(a)(1-4), FC]</p> <ul style="list-style-type: none"> No Delinquent Conduct Referrals No Adult Felony Convictions No Pending Adult Charges (Felony or Jailable Misdemeanor) 	<p>All Matters</p> <p>No Referral Fingerprints, photos and related custody event documents must be destroyed if the case is not referred to the juvenile court within 10 days. [§58.001, FC]</p> <p>No Probable Cause Finding Destruction is required when intake or the prosecutor determines no probable cause exist that the child engaged in conduct. [§58.263, FC]</p>	<p>All Matters</p> <p>CINS and Misdemeanors Age 18 CINS Alleged, Adjudicated Age 21 MISD Alleged, Adjudicated</p> <p>No Action Age 18 No Action, Referral was not CINS or Delinquent Conduct</p> <p>Felony Age 21 FELONY Alleged, No Adjudication Age 31 FELONY Adjudication [§58.264(b), FC]</p>

Conference Materials

Juvenile Guide & TFC Subch. C-1

TEXAS JUVENILE JUSTICE SYSTEM FILES AND RECORDS

A Juvenile's Guide to Understanding Juvenile Records and Sealing

Who has a juvenile record in Texas?

Anyone referred to juvenile court for conduct occurring before age 17 has a record, even if not taken into custody by police before the referral. Referrals to juvenile court may be for delinquent conduct (generally Class A or B misdemeanor or felony offenses) or for conduct indicating a need for supervision (CINS) (e.g., class C misdemeanors, conduct that would not be against the law if committed by an adult, like drinking or running away, and other specific offenses, such as "sexting"). Juvenile records exist with probation, law enforcement, prosecutors, courts, and in the Juvenile Justice Information System (JJIS) computer database maintained by the Texas Department of Public Safety. Class C misdemeanor cases handled in justice or municipal court do not result in a juvenile record.

Who can access juvenile records?

Juvenile records are confidential and may be shared only with entities specified in law. These are generally entities that need access for community safety or to provide services to juveniles. DPS may share the records in JJIS only with: criminal and juvenile justice agencies; TJJD and the Ombudsman for TJJD courts exercising jurisdiction over juveniles; the Department of Family and Protective Services for certain background checks, the military (only with the juvenile's permission); and noncriminal justice agencies (only if authorized by federal law or executive order). If the records are sealed, only law enforcement agencies, except with a court order, which may be issued in limited circumstances. Entities that provide supervision or licenses are not authorized to access the information in JJIS whether or not the records are sealed.

How do I get my records get sealed?

If you were referred to juvenile court for CINS and never referred for delinquent conduct, your records will be sealed when you turn 18 as long as you do not have an adult felony conviction or pending adult charges. If you were referred to juvenile court for delinquent conduct (felony or misdemeanor) but never adjudicated (i.e., "found guilty") or were adjudicated for a misdemeanor but not a felony, your records will be sealed when you turn 19 as long as you do not have an adult conviction for a jailable misdemeanor or felony and don't have pending adult or juvenile charges. You do not have to apply to the court for this type of sealing.

If you were adjudicated for a felony or you do not otherwise meet the criteria for sealing above, you may file an application (with or without an attorney) asking the court to seal your records. You may do this only if you: are at least age 18 or, if not yet 18, at least two years have passed since the last court action or discharge from probation; do not have any adult felony convictions or any pending adult charges (other than Class C misdemeanors); are not currently required to register as a sex offender; and are not currently committed to TJJD or Travis County's commitment program. The court may choose to order the records sealed without a hearing or may hold a hearing to decide whether or not to seal the records. The court is not authorized to deny an application for sealing without first having a hearing.

Are there any records that can't be sealed?

You cannot get your records sealed if you were ever certified by the juvenile court to stand trial as an adult or were ever given a determinate sentence (probation or commitment). If you are required to register as a sex offender, you cannot get your records sealed until your obligation to register has expired. If you were committed to TJJD or Travis County, you are not eligible for sealing until you have been discharged.

Sealing does not apply to records in a justice or municipal court related to a Class C misdemeanor. Sealing

Texas Family Code Chapter 58 SUBCHAPTER C-1. SEALING AND DESTRUCTION OF JUVENILE RECORDS

Sec. 58.251. DEFINITIONS. In this subchapter:

- (1) "Electronic record" means an entry in a computer file or information on microfilm, microfiche, or any other electronic storage media.
- (2) "Juvenile matter" means a referral to a juvenile court or juvenile probation department and all related court proceedings and outcomes, if any.
- (3) "Physical record" means a paper copy of a record.
- (4) "Record" means any documentation related to a juvenile matter, including information contained in that documentation.

Sec. 58.252. EXEMPTED RECORDS. The following records are exempt from this subchapter:

- (1) records relating to a criminal combination or criminal street gang maintained by the Department of Public Safety or a local law enforcement agency under Chapter 61, Code of Criminal Procedure;
- (2) registration records maintained by the Department of Public Safety or a local law enforcement agency under Chapter 62, Code of Criminal Procedure; and
- (3) records collected or maintained by the Texas Juvenile Justice Department for statistical and research purposes, including data submitted under Section 221.007, Human Resources Code, and personally collected information.

Sec. 58.253. SEALING RECORDS WITHOUT APPLICATION: DELINQUENT CONDUCT. (a) This section does not apply to the records of a child referred to a juvenile court or juvenile probation department solely for conduct indicating a need for supervision.

(b) A person who was referred to a juvenile probation department for delinquent conduct is entitled to have all records related to the person's juvenile matters, including records relating to any matters involving conduct indicating a need for supervision, sealed without applying to the juvenile court if the person:

- (1) is at least 19 years of age;
- (2) has not been adjudicated as having engaged in delinquent conduct or, if adjudicated for delinquent conduct, was not adjudicated for delinquent conduct violating a penal law of the grade of felony;
- (3) does not have any pending delinquent conduct matters;
- (4) has not been transferred by a juvenile court to a criminal court for prosecution under Section 54.02;
- (5) has not as an adult been convicted of a felony or a misdemeanor punishable by confinement in jail; and
- (6) does not have any pending charges as an adult for a felony or a misdemeanor punishable by confinement in jail.

Sec. 58.254. CERTIFICATION OF ELIGIBILITY FOR SEALING RECORDS WITHOUT APPLICATION FOR DELINQUENT CONDUCT. (a) The Department of Public Safety shall certify to a juvenile probation department that has submitted records to the juvenile justice information system that the records relating to a person referred to the juvenile probation department appear to be eligible for sealing under Section 58.253.

(b) The Department of Public Safety may issue the certification described by Subsection (a) by electronic means, including by electronic mail.

(c) Except as provided by Subsection (d), not later than the 60th day after the date the juvenile probation department receives a certification under Subsection (a), the juvenile probation department shall:

Statutes effective September 1, 2017

www.tjjd.texas.gov



Sealing Orders

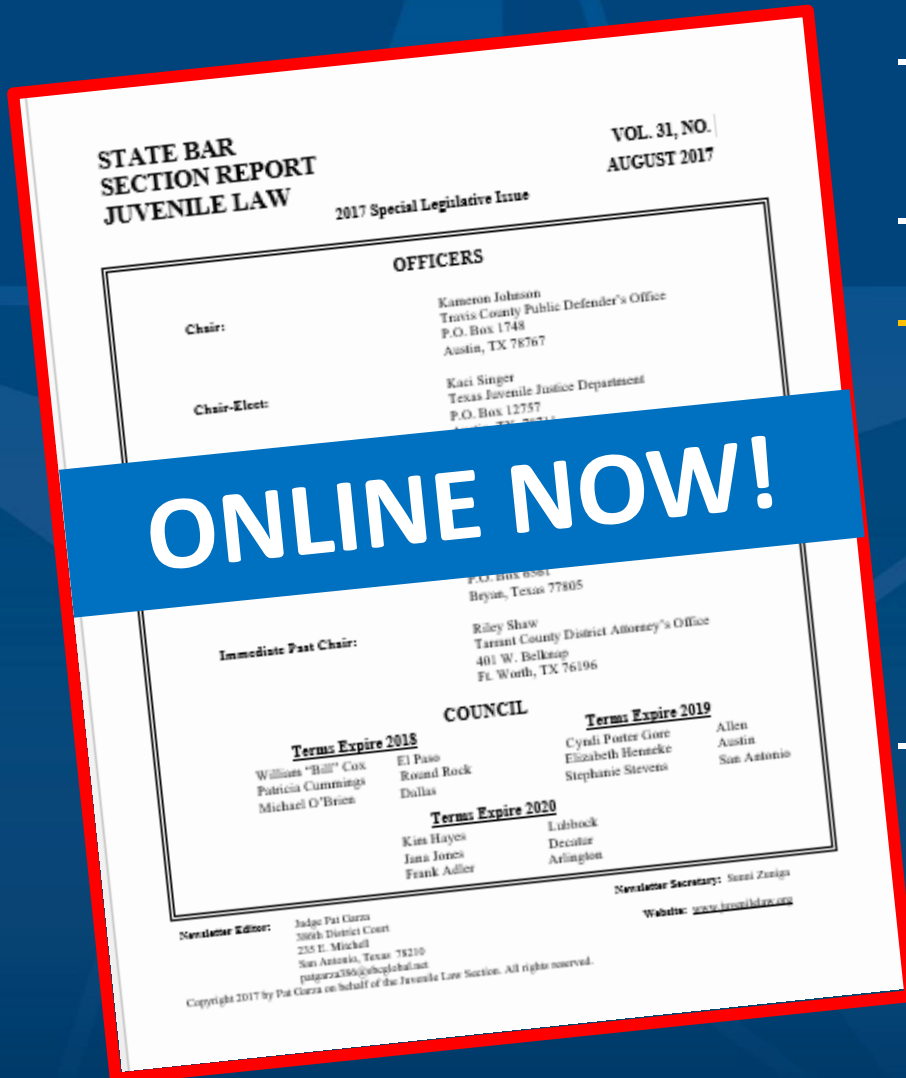
Juvenile Law Sections Forms

- Sample Sealing Orders and Verification Forms have been developed.
- Incorporates the processes outlined in **SB 1304** enacted during the 85th Session.
- Sample forms are available online at the Juvenile Law Section website www.juvenilelaw.org.

Note -- Should be reviewed by local juvenile court prosecutor or legal counsel for sufficiency and adapted for the county's particular situation or drafting preferences.

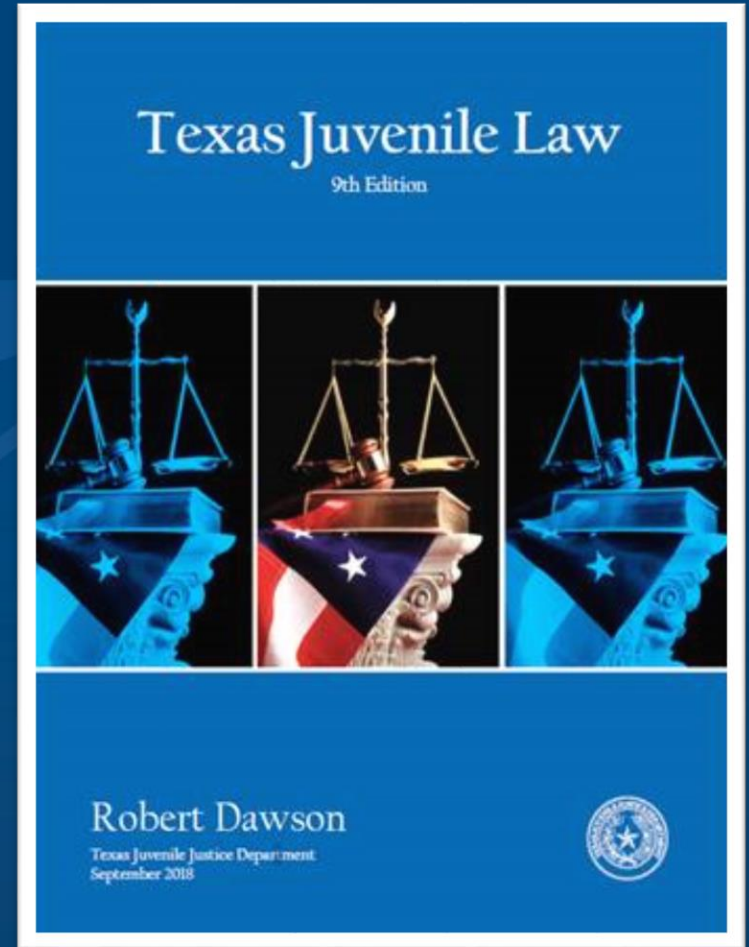
2017 Special Legislative Issue

- State Bar Juvenile Law Section Report, Special Legislative Issue.
- Special feature on **SB 1304**.
- **TJJD Legal Education & Technical Assistance** and guest contributors prepared useful summaries and intent history of key juvenile justice bills enacted during the 85th Legislative Session.
- Available **online** at www.juvenilelaw.org and www.tjjd.texas.gov



Texas Juvenile Law, 9th Ed.

- **All NEW Chapter 15 on Juvenile Records** includes the 2017 legislative changes.
- JPDs will receive a digital copy of the book and printed book is available for purchase online.
- Written by the late UT Professor Robert O. Dawson and Updated by TJJD **LETA**.



Records Retention Schedule

Figure: 13 TAC §7.125(a)(4)



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www.tsl.state.tx.us/slrm

LOCAL SCHEDULE PS (Third Edition)

Consolidated Juvenile Schedules

SECTION 2-5:

Retention Note: Juvenile court records are subject to sealing under F... not affect the minimum retention periods in this part or the destruction

Records maintained by law enforcement agencies or other agencies relating to taking juveniles into custody and their prosecution are subject to sealing. Law enforcement records or records held by other agencies relating to the case must be transferred to the court issuing the order and all index references to the records ordered sealed must be deleted. The retention periods in this part apply to unsealed records of juveniles in the possession of law enforcement agencies or other agencies.

- **JUVENILE RETENTION SCHEDULE** is being revised by the TSL to capture the changes to Chapter 58 of the Family Code.



Record Number	Record Title	Record Description	Retention Period	Remarks
4425-01 through 4425-04	[WITHDRAWN]			
*PS4225-05	VIDEO RECORDINGS [JUVENILE DETENTION HEARINGS]	Video recordings of detention hearings involving juveniles.	The earlier of (1) the 91st day after the date on which the recording is made if the child	By law - Family Code, section 54.012(e).



Nydia D. Thomas, J.D.

Special Counsel
TJJD Office of the General Counsel
Legal Education & Technical Assistance